

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

RENAISSANCE PRESERVE IV, LLC

Petitioner,

FHFC CASE NO. 2014- 088 VW  
RFP Application No. 2014-400C

vs.

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

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**PETITION FOR WAIVER**

The Homes of Renaissance Preserve IV, LLLP ("Renaissance"), hereby petitions The Florida Housing Finance Corporation ("Florida Housing") for a waiver of the Total Development Cost Limitation ("TDC") found in the Credit Underwriting Procedures Section of RFA 2014-106: For PHA Revitalization of Affordable Housing Developments. ("2014 PHA RFA or RFA") In support of this Petition Renaissance provides as follows:

**A. THE PETITIONER**

1. The name, address, telephone and facsimile numbers, and email address for the Renaissance's and its qualified representative for purposes of this Petition is:

Paula Rhodes  
Norstar Development USA, LP  
3269 Madaca Lane  
Tampa, FL 33618  
Telephone: (813) 933-0629  
Facsimile: (813) 935-3420  
Email: [prhodes@primericagroupone.com](mailto:prhodes@primericagroupone.com)

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2. For purpose of this Petition, the address, telephone number and facsimile number of Counsel for Renaissance is:

Michael P. Donaldson  
Carlton Fields Jordan Burt, P.A.  
Post Office Drawer 190  
Tallahassee, FL 32302-0190  
Telephone: (850) 513-3613  
Facsimile: (850) 222-0398  
Email: [mdonaldson@cfjblaw.com](mailto:mdonaldson@cfjblaw.com)

**B. THE DEVELOPMENT**

3. On May 7, 2014, Renaissance timely submitted its Application in response to the RFA for an 88-unit concrete construction apartment development named The Homes of Renaissance Preserve III in Lee County, Florida. (The "Development"). The Renaissance Development will be constructed on property owned by the Housing Authority of the City of Fort Myers. Renaissance received an allocation of Low-Income Housing Tax Credits for the Development and is currently in the Credit Underwriting process established by the RFA and applicable Credit Underwriting Rules.

4. The syndication of Low-Income Housing Tax Credits, together with other loan sources, will provide funds for the construction of the Renaissance Development.

5. The waiver requested herein will not adversely affect the proposed Renaissance Development. However, a denial of this Petition (a) will result in substantial economic hardship to Renaissance; (b) could deprive Lee County of essential, affordable housing units, and (c) would violate principles of fairness.

6. The waiver being sought is permanent in nature.

**C. RFA PROVISIONS FROM WHICH WAIVER IS SOUGHT**

7. Renaissance requests a waiver from the Total Development Cost Limitation referenced in the 2014 PHA RFA. Specifically, Renaissance is requesting a \$5,000 increase in the Total Development Cost per unit from the listed \$165,900.

8. The 2014 PHA RFA, in relevant part at Exhibit B, Part 8 provides:

**Total Development Cost Per Unit Limitation:**

The Corporation shall limit the Total Development Cost (TDC) per unit for all Developments categorized by the construction type of the units as indicated by the Applicant in the RFA. The maximum amounts are provided on the TDC Per Unit Limitation chart set out below (the maximum TDC per unit exclusive of land costs, applying any applicable TDC multiplier) and will be tested during the scoring of the RFA, during the credit underwriting process, and during the final allocation process, as outlined below:

These TDC Limitation amounts are effective from the Application Deadline through Final Cost Certification.

**Total Development Cost Per Unit Base Limitation**

| <b>Measure</b>                               | <b>New Construction Units</b> | <b>Rehabilitation Units</b> |
|--|-------------------------------|-----------------------------|
| Maximum TDC Per Unit exclusive of Land Costs | \$165,900                     | \$138,900                   |

**D. STATUTES IMPLEMENTED BY THE RFA**

9. The 2014 PHA RFA is implementing Chapter 420, F.S. which is, the statute that designates Florida Housing as the housing credit agency responsible for the allocation and administration of Low-Income Housing Tax Credits for the State of Florida. See Section 420.5099, Florida Statutes.

**E. PETITIONER REQUESTS A WAIVER FROM THE RFA FOR THE FOLLOWING REASONS**

10. Renaissance requests a waiver from the 2014 PHA RFA to allow for an increase in the TDC. As has become evident in the Credit Underwriting process unforeseen issues have increased the construction costs per unit for the Renaissance Development. It is not uncommon for unforeseen events to occur after submission of an Application which cause an increase in construction costs.

11. Specifically, the land on which the Renaissance Development will be constructed is owned by the Housing Authority of the City of Fort Myers and, consequently, the Davis Bacon Act requires that labor be compensated in accordance with a Prevailing Wage Determination published annually by the US Department of Labor and updated from time to time throughout the year. Prevailing Wages for a PHA construction project are those in effect at the time the construction contract is executed, creating budget issues due to increases in wage rates between application and execution of the construction contract.

12. Moreover when dealing with concrete construction these costs routinely fluctuate. Indeed in other RFA's Florida Housing recognized the potential for increased construction costs for concrete development verses those using wood construction. In fact in RFA 2014-103, issued prior to the 2014 PHA RFA, Florida Housing recognized that the difference between wood and concrete construction was more than \$20,000 per apartment unit. The same recognition is found in subsequently issued RFAs. This difference was not referenced in the 2014 PHA RFA and the TDC appears to be based solely on wood construction. The Renaissance Development is concrete construction.

13. Florida Housing has the authority to grant waivers to its requirements when strict application of the requirements would lead to unreasonable, unfair and unintended consequences in particular instances. Waivers shall be granted when (1) the person who is

subject to the rule demonstrates that the application of the rule would create a substantial hardship or violate principals of fairness, and (2) the purpose of the underlying statute has been or will be achieved by other means by the person.

14. A waiver of the 2014 PHA RFA's Total Development Cost Limitation would serve the purposes of Section 420.5099, F.S, and the Act as a whole, because one of the Act's primary purposes is to facilitate the availability of decent, safe and sanitary housing in the State of Florida to households of limited means.

15. By granting the waiver and permitting Renaissance to exceed the Total Development Cost Limitation amount, Florida Housing would recognize the economic realities and principles of fundamental fairness in developing affordable rental housing. This recognition would promote participation by developers such as Renaissance in meeting the Act's purpose of providing affordable housing where it is desperately needed.

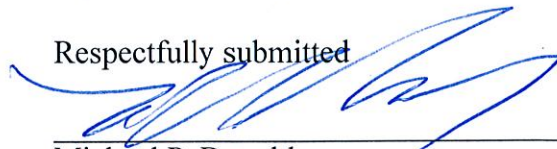
16. Should the Corporation require additional information, Petitioner is available to answer questions and to provide all information necessary for consideration of this Petition.

**F. ACTION REQUESTED**

17. Petitioner requests the following:

- a) That Florida Housing grant Petitioner a waiver from the 2014 PHA RFA Total Development Cost Limitation and allow it to exceed the Total Development Cost Limitation.
- b) Grant the Petition and all of the relief requested therein;  
and
- c) Grant such further relief as may be deemed appropriate.

Respectfully submitted



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Michael P. Donaldson  
Florida Bar No. 0802761  
CARLTON, FIELDS JORDEN BURT, P.A.  
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215 S. Monroe St., Suite 500

Tallahassee, Florida 32302  
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Facsimile: 850/222-0398

Attorney for Petitioner

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original Petition is being served by Hand-Delivery and electronic transmission for filing with the Corporation Clerk and Wellington Meffert, General Counsel for the Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, with copies served on the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300 this 21st day of November, 2014.

  
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Michael P. Donaldson